HON'BLE SRI JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 27203 of 2007

Dated 24th December, 2007

Between

Mastan Thotti

…Petitioner

and

The Government of Andhra Pradesh,
Rep. By its Superintendent of Police,
Kurnool, Kurnool District, and, ors.

…Respondents.

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 27203 of 2007

ORDER:

In this Writ Petition, the petitioner seeks Writ of Mandamus to declare the action of the respondents in seizing the lorry bearing Registration No.AP.28T.6678 belonging to him, as illegal and arbitrary.

The above said vehicle of the petitioner was intercepted and seized by the respondents on 4-12-2007 on the ground that the said vehicle undertook transportation of 33 quintals of rice in violation of the Andhra Pradesh State Public Distribution System Control Order, 2001. Pursuant to the seizure, 33 quintals of rice was handed over to one Sri P.C.V. Subbaiah, a Fair Price Shop dealer of Deva Nagar, Nandyal

and seized lorry was handed over to the custody of the Sub-Inspector of Police, III town Police Station, Nandyal.

This Writ Petition is filed questioning the seizure of lorry on the ground that the second respondent-Circle Inspector of Police, has no authority or jurisdiction and he is not delegated with any powers under the Essential Commodities Act, 1955 or Control Order framed thereunder to seize the lorry.

When the matter is taken up on 20-12-2007, the same was adjourned, to enable the learned Government Pleader to get instructions. On instructions, it is submitted by the learned Government Pleader that on the information furnished by the second respondent-Police, seizure was effected by the Tahsildar, Nandyal, Deputy Tahsildar (Civil Supplies), Nandyal, along with staff of VRO, Nandyal.

Merely because, seizure was effected based on the information of the second respondent-Police, it cannot be said that prima facie, the seizure is illegal so as to quash the same in this Writ Petition. But, however, it is to be noted that though the vehicle and commodity therein were seized alleging violation of the Andhra Pradesh State Public Distribution System Control Order, 2001 and provisions of the Essential Commodities Act, 1955, but, however, the vehicle is not produced before the competent authority under Section 6-A of the Essential Commodities Act, 1955. As much as, though seizure was effected on 4-12-2007, the same is not reported to the competent Magistrate and, no proceedings have been initiated so far under the provisions of the Essential Commodities Act, 1955 by issuing any show cause notice to the petitioner, I dispose of the Writ Petition directing the respondents to release the vehicle in question in favour of the petitioner on his furnishing bank guarantee to the value of the

commodity seized from the said vehicle and further giving an undertaking that he will not alienate, transfer, encumber or create any third party interest over the vehicle in question till the final orders are passed in the proceedings under Section 6-A of the Essential Commodities Act, 1955. It is made clear that the amount deposited and undertaking given by the petitioner are subject to the final orders to be passed by the respondents in Section 6-A Proceedings**.**

Subject to the above direction, the Writ Petition is disposed of at the admission stage. No order as to costs.

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JUSTICE R. SUBHASH REDDY

DATE: 24-12-2007
Note: CC in three days
(BO) Msnr.